



For a thriving New England

CLF Massachusetts 62 Summer Street
Boston MA 02110
P: 617.350.0990
F: 617.350.4030
www.clf.org

May 7, 2019

Michael Setzer
President
Transdev Services, Inc.
720 E. Butterfield Road, Suite 300
Lombard, IL 60148

Yann Leriche
President
Transdev North America, Inc.
720 E. Butterfield Road, Suite 300
Lombard, IL 60148

C T Corporation System
Registered Agent
Transdev Service, Inc.; Transdev North America, Inc.
155 Federal Street, Suite 700
Boston, MA 02110

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

RE: Notice of Violations and Intent to File Suit Under the Clean Air Act

Messrs. Setzer and Leriche:

The Conservation Law Foundation (“CLF”)¹ hereby gives notice to Transdev Services, Inc., Transdev North America, Inc., and their agents and directors (collectively, “Transdev”) of its intent to file suit pursuant to Section 304(a) of the Clean Air Act (“CAA”), 42 U.S.C. § 7604(a). This letter constitutes notice pursuant to 40 C.F.R., Part 54 (the “Notice”) to the addressed persons of CLF’s intention to file suit in the United States District Court for the District of Massachusetts seeking appropriate civil penalties, equitable relief, and CLF’s reasonable litigation costs, including attorney and expert witness fees and costs, no earlier than 60 days from the postmark of this Notice letter.

¹ CLF is a not-for-profit 501(c)(3) organization dedicated to the conservation and protection of New England’s environment. Its mission includes safeguarding the health and quality of life of New England communities facing the adverse effects of air pollution. CLF’s membership includes individuals who live near the lots at which vehicles owned and/or operated by Transdev were idling in excess of five minutes. CLF’s members, their health and their well-being are harmed by Transdev’s violations of the CAA.



CLF has evidence that Transdev has repeatedly violated, is violating, and will continue to violate the CAA and the Massachusetts State Implementation Plan (“SIP”). As detailed below, Transdev is violating the motor vehicle idling limits contained in the federally enforceable Massachusetts SIP.

REGULATORY BACKGROUND

The Commonwealth of Massachusetts has adopted a SIP within the meaning of Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), which has been approved by the Environmental Protection Agency under Section 110 of the Act, 42 U.S.C. § 7410. The Massachusetts SIP includes the regulation at 310 C.M.R. § 7.11(1)(b) (the “Massachusetts idling regulation”), which provides that “[n]o person shall cause, suffer, allow, or permit the unnecessary operation of the engine of a motor vehicle while said vehicle is stopped for a foreseeable period of time in excess of five minutes,” unless such operation is in accordance with a listed exception. Transdev’s violations do not fall within any of the listed exceptions.

FACTUAL BASIS

Transdev is the largest private provider of multiple modes of transport, including school buses, in North America.² In Massachusetts, Transdev is hired by Boston Public Schools to maintain public transportation for Boston’s public school system.³ Transdev owns and operates a fleet of school buses that are housed at a number of locations across Massachusetts.

On several days in March and April 2019, CLF conducted observations of buses owned or operated by Transdev at three school bus lots in Boston, Massachusetts. See Table 1 below.

Table 1: Transdev’s violations of the Massachusetts idling regulation (310 C.M.R. § 7.11(1)(b)).

Date	Location of Vehicle	Idling Start Time	Idling End Time	Duration of Idling (minutes)	Excess Idling (minutes)
3/13/2019	2000 Washington Street, Roxbury, MA	5:13AM	5:21AM	0:08	3
3/13/2019	2000 Washington Street, Roxbury, MA	5:16AM	5:47AM	0:31	26
3/13/2019	2000 Washington Street, Roxbury, MA	5:21AM	5:38AM	0:17	12

² Key Facts, TRANSDEV NORTH AMERICA, <https://www.transdevna.com/about-us/key-facts/> (last visited April 19, 2019).

³ Kristin LaFratta, *Boston Public Schools students prepare for first school day as bus driver negotiations fail*, MASS LIVE (Sept. 5, 2018), https://www.masslive.com/news/boston/2018/09/boston_students_prepare_for_fi.html.



3/13/2019	2000 Washington Street, Roxbury, MA	5:24AM	5:38AM	0:14	9
3/13/2019	2000 Washington Street, Roxbury, MA	5:33AM	6:13AM	0:40	35
3/13/2019	2000 Washington Street, Roxbury, MA	6:00AM	6:24AM	0:24	19
3/13/2019	2000 Washington Street, Roxbury, MA	12:33PM	12:50PM	0:17	12
3/13/2019	2000 Washington Street, Roxbury, MA	12:49PM	12:55PM	0:06	1
3/13/2019	2000 Washington Street, Roxbury, MA	1:25PM	1:40PM	0:15	10
3/13/2019	2000 Washington Street, Roxbury, MA	2:51PM	3:12PM	0:21	16
3/14/2019	D Street, Boston, MA	4:16AM	4:49AM	0:33	28
3/14/2019	D Street, Boston, MA	5:22AM	5:49AM	0:27	22
3/27/2019	2000 Washington Street, Roxbury, MA	5:22AM	5:35AM	0:13	8
3/27/2019	2000 Washington Street, Roxbury, MA	5:37AM	6:08AM	0:31	26
3/27/2019	34 Freeport Street, Boston, MA	7:20AM	7:33AM	0:13	8
3/28/2019	2000 Washington Street, Roxbury, MA	4:58AM	5:23AM	0:25	20
3/28/2019	2000 Washington Street, Roxbury, MA	5:54AM	6:00AM	0:06	1
3/28/2019	2000 Washington Street, Roxbury, MA	6:02AM	6:17AM	0:15	10
3/28/2019	2000 Washington Street, Roxbury, MA	6:02AM	6:34AM	0:32	27
3/28/2019	2000 Washington Street, Roxbury, MA	6:36AM	6:44AM	0:08	3
3/28/2019	2000 Washington Street, Roxbury, MA	6:36AM	6:53AM	0:17	12
3/28/2019	2000 Washington Street, Roxbury, MA	6:59AM	7:15AM	0:16	11
3/29/2019	34 Freeport Street, Boston, MA	7:25AM	7:38AM	0:13	8
3/29/2019	34 Freeport Street, Boston, MA	12:29PM	1:31PM	1:02	57
3/29/2019	34 Freeport Street, Boston, MA	12:54PM	1:03PM	0:09	4



3/29/2019	34 Freeport Street, Boston, MA	1:48PM	1:59PM	0:11	6
3/29/2019	34 Freeport Street, Boston, MA	2:00PM	2:51PM	0:51	46
4/23/2019	D Street, Boston, MA	5:03AM	5:23AM	0:20	15
4/23/2019	D Street, Boston, MA	5:26AM	5:37AM	0:10	5
4/23/2019	D Street, Boston, MA	5:58AM	6:06AM	0:08	3
4/24/2019	34 Freeport Street, Boston, MA	12:04PM	1:35PM	1:31	86
4/24/2019	34 Freeport Street, Boston, MA	1:41PM	1:50PM	0:09	4
4/24/2019	34 Freeport Street, Boston, MA	3:37PM	3:48PM	0:11	6
4/25/2019	2000 Washington Street, Roxbury, MA	5:11AM	5:28AM	0:12	7
4/25/2019	2000 Washington Street, Roxbury, MA	5:30AM	5:46AM	0:16	11
4/25/2019	2000 Washington Street, Roxbury, MA	5:47AM	6:14AM	0:27	22
4/25/2019	2000 Washington Street, Roxbury, MA	6:18AM	6:30AM	0:12	7
4/25/2019	2000 Washington Street, Roxbury, MA	6:36AM	6:59AM	0:23	18
4/25/2019	2000 Washington Street, Roxbury, MA	7:18AM	7:25AM	0:07	2
4/25/2019	2000 Washington Street, Roxbury, MA	7:24AM	7:45AM	0:21	16

Based on CLF's observations of Transdev school buses in lots in Boston, Massachusetts, CLF has a good-faith belief that Transdev has, on numerous occasions, caused, suffered, allowed, or permitted the idling of motor vehicles in excess of the five-minute time period allowed by 310 C.M.R. § 7.11(1)(b) and not in accordance with any exceptions listed in 310 C.M.R. § 7.11(1)(b)(1), (2), or (3). Accordingly, CLF alleges that Transdev has violated, is violating, and will continue to violate the Massachusetts idling regulation found at 310 C.M.R. § 7.11(1)(b).

RELIEF REQUESTED

Transdev is liable for the above-described violations of the Massachusetts anti-idling regulation, 310 C.M.R. 7.11(1)(b) and the CAA, as well as for violations occurring prior to the date of this letter and for every day that these violations continue. As a federally-enforceable SIP under Section 113(b) of the Act, 42 U.S.C. § 7413(b), violations of the Massachusetts anti-idling regulation may



incur the maximum civil monetary penalties owed for violations of the CAA. Pursuant to 42 U.S.C. § 7413(b) and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §§ 19.2, 19.4, each separate violation of the CAA subjects Transdev to a penalty of up to \$99,681 per day per violation for all CAA violations occurring after November 2, 2015, where penalties are assessed on or after February 6, 2019.

In addition to civil penalties, CLF will seek declaratory relief and injunctive relief to prevent further violations of the Massachusetts SIP and the CAA, and such other relief as permitted by law. CLF will seek an order from the Court requiring Transdev to remediate all identified violations through direct implementation of control measures and demonstration of regulatory compliance.

Lastly, pursuant to Section 304(d) of the Act, 42 U.S.C. § 7604(d), CLF will seek recovery of costs and fees associated with this matter.

CONCLUSION

During the 60-day notice period, CLF is willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of further litigation. If you wish to pursue such discussions, please have your attorney contact me in the next 21 days so that negotiations may be completed before the end of the 60-day notice period.

It is important that Transdev take immediate steps to ensure that its buses comply with the regulations. Idling engines emit pollutants which can cause or aggravate a variety of health problems, including asthma and other respiratory diseases. Drivers, passengers, and bystanders are all vulnerable to these effects.

Sincerely,

A handwritten signature in black ink, appearing to read "H. Govern", is written over a horizontal line.

Heather A. Govern, Esq.
Director, Clean Air and Water Program
Conservation Law Foundation, Inc.
62 Summer Street
Boston, MA 02110
hgovern@clf.org

(617) 850-1765



Enclosure

CC:

Andrew Wheeler
Administrator
Environmental Protection Agency
Office of the Administrator, 1101A
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

Deborah Szaro
EPA Region 1 Acting Administrator
Environmental Protection Agency
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Martin Suuberg
Commissioner
MassDEP
One Winter Street, 2nd Floor
Boston, MA 02108

Citizen Suit Coordinator
Environmental & Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, D.C. 20044-07415